

REFERENCE TITLE: college savings plans; income tax

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

## HB 2398

Introduced by  
Representatives Yarbrough, Murphy, Stump: Anderson, Driggs

AN ACT

AMENDING SECTIONS 43-1021 AND 43-1022, ARIZONA REVISED STATUTES; RELATING TO  
COLLEGE SAVINGS PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 43-1021, Arizona Revised Statutes, is amended to  
3 read:

4 43-1021. Additions to Arizona gross income

5 In computing Arizona adjusted gross income, the following amounts shall  
6 be added to Arizona gross income:

7 1. A beneficiary's share of the fiduciary adjustment to the extent  
8 that the amount determined by section 43-1333 increases the beneficiary's  
9 Arizona gross income.

10 2. An amount equal to the "ordinary income portion" of a lump sum  
11 distribution that was excluded from federal adjusted gross income pursuant to  
12 section 402(d) of the internal revenue code.

13 3. The amount of interest income received on obligations of any state,  
14 territory or possession of the United States, or any political subdivision  
15 thereof, located outside the state of Arizona, reduced, for tax years  
16 beginning from and after December 31, 1996, by the amount of any interest on  
17 indebtedness and other related expenses that were incurred or continued to  
18 purchase or carry those obligations and that are not otherwise deducted or  
19 subtracted in arriving at Arizona gross income.

20 4. Annuity income received during the taxable year to the extent that  
21 the sum of the proceeds received from such annuity in all taxable years prior  
22 to and including the current taxable year exceeds the total consideration and  
23 premiums paid by the taxpayer. This paragraph applies only to those  
24 annuities with respect to which the first payment was received prior to  
25 December 31, 1978.

26 5. The excess of a partner's share of partnership taxable income  
27 required to be included under chapter 14, article 2 of this title over the  
28 income required to be reported under section 702(a)(8) of the internal  
29 revenue code.

30 6. The excess of a partner's share of partnership losses determined  
31 pursuant to section 702(a)(8) of the internal revenue code over the losses  
32 allowable under chapter 14, article 2 of this title.

33 7. The amount by which the adjusted basis of property described in  
34 this paragraph and computed pursuant to the internal revenue code exceeds the  
35 adjusted basis of such property computed pursuant to this title and the  
36 income tax act of 1954, as amended. This paragraph shall apply to all  
37 property which is held for the production of income and which is sold or  
38 otherwise disposed of during the taxable year, except depreciable property  
39 used in a trade or business.

40 8. The amount of depreciation or amortization of costs of any capital  
41 investment that is deducted pursuant to section 167 or 179 of the internal  
42 revenue code by a qualified defense contractor with respect to which an  
43 election is made to amortize pursuant to section 43-1024.

1           9. The amount of gain from the sale or other disposition of a capital  
2 investment which a qualified defense contractor has elected to amortize  
3 pursuant to section 43-1024.

4           10. Amounts withdrawn from the Arizona state retirement system, the  
5 corrections officer retirement plan, the public safety personnel retirement  
6 system, the elected officials' retirement plan or a county or city retirement  
7 plan by an employee upon termination of employment before retirement to the  
8 extent they were deducted in arriving at Arizona taxable income in any year.

9           11. That portion of the net operating loss included in federal adjusted  
10 gross income which has already been taken as a net operating loss for Arizona  
11 purposes or which is separately taken as a subtraction under the special net  
12 operating loss transition rule.

13           12. Any nonitemized amount deducted pursuant to section 170 of the  
14 internal revenue code representing contributions to an educational  
15 institution which denies admission, enrollment or board and room  
16 accommodations on the basis of race, color or ethnic background except those  
17 institutions primarily established for the education of American Indians.

18           13. The amount paid as taxes on property in this state with respect to  
19 which a credit is claimed under section 43-1078.

20           14. Amounts withdrawn from a medical savings account by the individual  
21 during the taxable year computed pursuant to section 220(f) of the internal  
22 revenue code and not included in federal adjusted gross income.

23           15. Any amount of agricultural water conservation expenses that were  
24 deducted pursuant to the internal revenue code for which a credit is claimed  
25 under section 43-1084.

26           16. The amount by which the depreciation or amortization computed under  
27 the internal revenue code with respect to property for which a credit was  
28 taken under section 43-1080 exceeds the amount of depreciation or  
29 amortization computed pursuant to the internal revenue code on the Arizona  
30 adjusted basis of the property.

31           17. The amount by which the adjusted basis computed under the internal  
32 revenue code with respect to property for which a credit was claimed under  
33 section 43-1080 and which is sold or otherwise disposed of during the taxable  
34 year exceeds the adjusted basis of the property computed under section  
35 43-1080.

36           18. The amount by which the depreciation or amortization computed under  
37 the internal revenue code with respect to property for which a credit was  
38 taken under either section 43-1081 or 43-1081.01 exceeds the amount of  
39 depreciation or amortization computed pursuant to the internal revenue code  
40 on the Arizona adjusted basis of the property.

41           19. The amount by which the adjusted basis computed under the internal  
42 revenue code with respect to property for which a credit was claimed under  
43 section 43-1074.02, 43-1081 or 43-1081.01 and which is sold or otherwise  
44 disposed of during the taxable year exceeds the adjusted basis of the

1 property computed under section 43-1074.02, 43-1081 or 43-1081.01, as  
2 applicable.

3 20. The deduction referred to in section 1341(a)(4) of the internal  
4 revenue code for restoration of a substantial amount held under a claim of  
5 right.

6 21. The amount by which a net operating loss carryover or capital loss  
7 carryover allowable pursuant to section 1341(b)(5) of the internal revenue  
8 code exceeds the net operating loss carryover or capital loss carryover  
9 allowable pursuant to section 43-1029, subsection F.

10 22. Any amount deducted pursuant to section 170 of the internal revenue  
11 code representing contributions to a school tuition organization or a public  
12 school for which a credit is claimed under section 43-1089 or 43-1089.01.

13 23. Any amount deducted in computing Arizona gross income as expenses  
14 for installing solar stub outs or electric vehicle recharge outlets in this  
15 state with respect to which a credit is claimed pursuant to section 43-1090.

16 24. Any wage expenses deducted pursuant to the internal revenue code  
17 for which a credit is claimed under section 43-1087 and representing net  
18 increases in qualified employment positions for employment of temporary  
19 assistance for needy families recipients.

20 25. Any amount deducted for conveying ownership or development rights  
21 of property to an agricultural preservation district under section 48-5702  
22 for which a credit is claimed under section 43-1081.02.

23 26. The amount of any depreciation allowance allowed pursuant to  
24 section 167(a) of the internal revenue code to the extent not previously  
25 added.

26 27. With respect to property for which an expense deduction was taken  
27 pursuant to section 179 of the internal revenue code, the amount in excess of  
28 twenty-five thousand dollars.

29 28. The amount of any deductions that are claimed in computing federal  
30 adjusted gross income representing expenses for which a credit is claimed  
31 under section 43-1075.

32 29. The amount by which the depreciation or amortization computed under  
33 the internal revenue code with respect to property for which a credit was  
34 taken under section 43-1090.01 exceeds the amount of depreciation or  
35 amortization computed pursuant to the internal revenue code on the Arizona  
36 adjusted basis of the property.

37 30. The amount by which the adjusted basis computed under the internal  
38 revenue code with respect to property for which a credit was claimed under  
39 section 43-1090.01 and which is sold or otherwise disposed of during the  
40 taxable year exceeds the adjusted basis of the property computed under  
41 section 43-1090.01.

42 31. THE AMOUNT OF A NONQUALIFIED WITHDRAWAL, AS DEFINED IN SECTION  
43 15-1871, FROM A COLLEGE SAVINGS PLAN ESTABLISHED PURSUANT TO SECTION 529 OF  
44 THE INTERNAL REVENUE CODE THAT IS MADE TO A DISTRIBUTE TO THE EXTENT THE  
45 AMOUNT IS NOT INCLUDED IN COMPUTING FEDERAL ADJUSTED GROSS INCOME, EXCEPT

1 THAT THE AMOUNT ADDED UNDER THIS PARAGRAPH SHALL NOT EXCEED THE DIFFERENCE IN  
2 THE AMOUNT SUBTRACTED UNDER SECTION 43-1022 AND THE AMOUNT ADDED IN THE PRIOR  
3 TAXABLE YEAR.

4 Sec. 2. Section 43-1022, Arizona Revised Statutes, is amended to read:  
5 43-1022. Subtractions from Arizona gross income

6 In computing Arizona adjusted gross income, the following amounts shall  
7 be subtracted from Arizona gross income:

8 1. The amount of exemptions allowed by section 43-1023.

9 2. Benefits, annuities and pensions in an amount totaling not more  
10 than two thousand five hundred dollars received from one or more of the  
11 following:

12 (a) The United States government service retirement and disability  
13 fund, retired or retainer pay of the uniformed services of the United States,  
14 the United States foreign service retirement and disability system and any  
15 other retirement system or plan established by federal law.

16 (b) The Arizona state retirement system, the corrections officer  
17 retirement plan, the public safety personnel retirement system, the elected  
18 officials' retirement plan, an optional retirement program established by the  
19 Arizona board of regents under section 15-1628, an optional retirement  
20 program established by a community college district board under section  
21 15-1451 or a retirement plan established for employees of a county, city or  
22 town in this state.

23 3. A beneficiary's share of the fiduciary adjustment to the extent  
24 that the amount determined by section 43-1333 decreases the beneficiary's  
25 Arizona gross income.

26 4. The amount of any distributions from an individual retirement  
27 account as provided for in section 408 of the internal revenue code or from a  
28 qualified retirement plan of a self-employed individual as provided for in  
29 section 401 of the internal revenue code to the extent that total adjustments  
30 made pursuant to this paragraph in all tax years do not exceed the total of  
31 all contributions made by the taxpayer to such plans prior to December 31,  
32 1975, which were included in computing Arizona taxable income.

33 5. The amount of income on an installment receivable which is  
34 recognized pursuant to the internal revenue code and which has already been  
35 recognized on the death of the taxpayer for purposes of this title for tax  
36 years ending before January 1, 1990.

37 6. Interest income received on obligations of the United States, less  
38 any interest on indebtedness, or other related expenses, and deducted in  
39 arriving at Arizona gross income, which were incurred or continued to  
40 purchase or carry such obligations.

41 7. The amount of any income tax refunds which were received from  
42 states other than Arizona and which were included as income in computing  
43 federal adjusted gross income.

1           8. Annuity income included in federal adjusted gross income pursuant  
2 to section 72 of the internal revenue code if the first payment with respect  
3 to such annuity was received prior to December 31, 1978.

4           9. The excess of a partner's share of income required to be included  
5 under section 702(a)(8) of the internal revenue code over the income required  
6 to be included under chapter 14, article 2 of this title.

7           10. The excess of a partner's share of partnership losses determined  
8 pursuant to chapter 14, article 2 of this title over the losses allowable  
9 under section 702(a)(8) of the internal revenue code.

10           11. The amount by which the adjusted basis of property described in  
11 this paragraph and computed pursuant to this title and the income tax act of  
12 1954, as amended, exceeds the adjusted basis of such property computed  
13 pursuant to the internal revenue code. This paragraph shall apply to all  
14 property which is held for the production of income and which is sold or  
15 otherwise disposed of during the taxable year other than depreciable property  
16 used in a trade or business.

17           12. The amount allowed by section 43-1024 for amortization, by a  
18 qualified defense contractor certified by the department of commerce under  
19 section 41-1508, of a capital investment for private commercial activities.

20           13. The amount of gain included in federal adjusted gross income on the  
21 sale or other disposition of a capital investment that a qualified defense  
22 contractor has elected to amortize pursuant to section 43-1024.

23           14. The amount allowed by section 43-1025 for contributions during the  
24 taxable year of agricultural crops to charitable organizations.

25           15. The portion of any wages or salaries paid or incurred by the  
26 taxpayer for the taxable year that is equal to the amount of the federal work  
27 opportunity credit, the empowerment zone employment credit, the credit for  
28 employer paid social security taxes on employee cash tips and the Indian  
29 employment credit that the taxpayer received under sections 45A, 45B, 51(a)  
30 and 1396 of the internal revenue code.

31           16. The amount of prizes or winnings less than five thousand dollars in  
32 a single taxable year from any of the state lotteries established and  
33 operated pursuant to title 5, chapter 5, article 1, except that all such  
34 winnings before March 22, 1983, including periodic distributions from such  
35 winnings made after March 22, 1983, may be subtracted.

36           17. The amount of exploration expenses that is determined pursuant to  
37 section 617 of the internal revenue code, that has been deferred in a taxable  
38 year ending before January 1, 1990 and for which a subtraction has not  
39 previously been made. The subtraction shall be made on a ratable basis as  
40 the units of produced ores or minerals discovered or explored as a result of  
41 this exploration are sold.

42           18. The amount included in federal adjusted gross income pursuant to  
43 section 86 of the internal revenue code, relating to taxation of social  
44 security and railroad retirement benefits.

1       19. To the extent not already excluded from Arizona gross income under  
2 the internal revenue code, compensation received for active service as a  
3 member of the reserves, **THE** national guard or the armed forces of the United  
4 States, including compensation for service in a combat zone as determined  
5 under section 112 of the internal revenue code.

6       20. The amount of unreimbursed medical and hospital costs, adoption  
7 counseling, legal and agency fees and other nonrecurring costs of adoption  
8 not to exceed three thousand dollars. In the case of a husband and wife who  
9 file separate returns, the subtraction may be taken by either taxpayer or may  
10 be divided between them, but the total subtractions allowed both husband and  
11 wife shall not exceed three thousand dollars. The subtraction under this  
12 paragraph may be taken for the costs that are described in this paragraph and  
13 that are incurred in prior years, but the subtraction may be taken only in  
14 the year during which the final adoption order is granted.

15       21. The amount authorized by section 43-1027 for the taxable year  
16 relating to qualified wood stoves, wood fireplaces or gas fired fireplaces.

17       22. With respect to a medical savings account established pursuant to  
18 section 43-1028:

19       (a) An eligible individual may subtract:

20       (i) The amount of contributions made by the individual's employer  
21 during the taxable year to the individual's medical savings account pursuant  
22 to section 43-1028 to the extent that the employer contributions are included  
23 in the individual's federal adjusted gross income.

24       (ii) The amount deposited by the individual in the account during the  
25 taxable year to the extent that the individual's contributions are included  
26 in the individual's federal adjusted gross income.

27       (b) The individual's employer may subtract the amount of contributions  
28 made by the employer to a medical savings account established on the  
29 individual's behalf to the extent that the contributions are not deductible  
30 under the internal revenue code.

31       23. The amount by which a net operating loss carryover or capital loss  
32 carryover allowable pursuant to section 43-1029, subsection F exceeds the net  
33 operating loss carryover or capital loss carryover allowable pursuant to  
34 section 1341(b)(5) of the internal revenue code.

35       24. Any amount of qualified educational expenses that is distributed  
36 from a qualified state tuition program determined pursuant to section 529 of  
37 the internal revenue code and that is included in income in computing federal  
38 adjusted gross income.

39       25. Any item of income resulting from an installment sale that has been  
40 properly subjected to income tax in another state in a previous taxable year  
41 and that is included in Arizona gross income in the current taxable year.

42       26. The amount authorized by section 43-1030 relating to holocaust  
43 survivors.

44       27. The amount authorized by section 43-1031 for constructing an energy  
45 efficient residence.

28. An amount equal to the depreciation allowable pursuant to section 167(a) of the internal revenue code for the taxable year computed as if the election described in section 168(k)(2)(D)(iii) of the internal revenue code had been made for each applicable class of property in the year the property was placed in service.

29. With respect to property that is sold or otherwise disposed of during the taxable year by a taxpayer that complied with section 43-1021, paragraph 26 with respect to that property, the amount of depreciation that has been allowed pursuant to section 167(a) of the internal revenue code to the extent that the amount has not already reduced Arizona taxable income in the current or prior taxable years.

30. With respect to property for which an adjustment was made under section 43-1021, paragraph 27, an amount equal to one-fifth of the amount of the adjustment pursuant to section 43-1021, paragraph 27 in the year in which the amount was adjusted under section 43-1021, paragraph 27 and in each of the following four years.

31. THE AMOUNT CONTRIBUTED DURING THE TAXABLE YEAR TO A COLLEGE SAVINGS PLAN ESTABLISHED UNDER TITLE 15, CHAPTER 14, ARTICLE 7 TO THE EXTENT THAT THE CONTRIBUTIONS WERE NOT DEDUCTED IN COMPUTING FEDERAL ADJUSTED GROSS INCOME. THE AMOUNT SUBTRACTED SHALL NOT EXCEED:

(a) TWO THOUSAND DOLLARS FOR A SINGLE INDIVIDUAL OR A HEAD OF HOUSEHOLD.

(b) FOUR THOUSAND DOLLARS FOR A MARRIED COUPLE FILING A JOINT RETURN. IN THE CASE OF A HUSBAND AND WIFE WHO FILE SEPARATE RETURNS, THE SUBTRACTION MAY BE TAKEN BY EITHER TAXPAYER OR MAY BE DIVIDED BETWEEN THEM, BUT THE TOTAL SUBTRACTIONS ALLOWED BOTH HUSBAND AND WIFE SHALL NOT EXCEED FOUR THOUSAND DOLLARS.

### Sec. 3. Retroactivity

This act applies retroactively to taxable years beginning from and after December 31, 2006.